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Digital Single Market Bulletin : December 2019

Item Type	other
Citation	Ireland. Department of Business, Enterprise and Innovation, 'Digital Single Market Bulletin : December 2019', [other], Department of Business, Enterprise and Innovation, 2019-12, Digital Single Market Bulletin, 14, December 2019
Publisher	Department of Business, Enterprise and Innovation
Download date	2026-04-21 08:06:19
Link to Item	https://hdl.handle.net/20.500.14765/109074



Digital Single Market Bulletin

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Further Reading: More in-depth updates and commentary on the Digital Single Market agenda is available at:

https://ec.europa.eu/commission/priorities/digital-single-market_en

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Message from Minister Breen

2019 was a very busy year for our agenda with 28 of the 30 Digital Single Market (DSM) legislative proposals now agreed.



Minister of State for Trade, Employment, Business, EU Digital Single Market and Data Protection, Pat Breen

The completion of the DSM will be hugely beneficial for Ireland. Not only will the removal of existing online barriers give us access to a wider variety of goods and services, but it will also create huge opportunities for our businesses to export and grow. I would like to thank colleagues across the Departments for all their work on the various DSM files. The benefits of the work completed to date have mainly centred around consumers. However, 2019 was an important year too for European business users of online platforms from a transparency perspective.

I wish colleagues continuing success in 2020 in ensuring the outcomes from the remaining and future DSM negotiations and initiatives are pro-trade, pro-enterprise, pro-consumer and pro-innovation.

D9+ Ministerial Meeting and Polish Bilateral at Official Level December 2019

Poland hosted the most recent D9+ Ministerial meeting on 9 December 2019 in Warsaw. Prior to the meeting Minister Breen took part in Poland's national Internet Governance Forum at a panel discussion attended by a wide range of national digital stakeholders entitled "Regulating the Internet – How far should we go?". The panel was made up of Ministers and Secretaries of State of some of the D9+ countries.



Minister Breen with D9+ group delegates in Warsaw

Following the panel discussion, Ministers and Secretaries of State and their delegations withdrew to the closed D9+ meeting. The host country also invited representatives from both Member States who will hold the Commission Presidency in 2020 – Croatia and Germany – as well as the Director General of DG CONNECT, Dr Roberto Viola.

The main agenda point for the meeting was the European Commission's consideration of a review of the eCommerce Directive and the merit of an updated, future-proof Digital Services Act for the EU. The purpose of this review would be to:

- provide providers of digital services with a clear, uniform, and up-to-date innovation friendly regulatory framework in the Single Market;
- protect, enable, and empower users when accessing digital services; and
- ensure the necessary cooperation among Member States, together with the adequate and appropriate oversight of providers of digital services in the EU.

In light of this proposed review, D9+ participants were asked to discuss the following issues:

- Obligations for online intermediaries;
- Distinguishing between illegal and harmful content;
- Content filtering; and
- Optimal regulatory structures.

The consensus among participants was that the eCommerce Directive has worked well and brought value over the past two decades. However, self-regulation in this area is not enough and there is a need for the current approach to be supplemented with regulatory / co-regulatory mechanisms and these interventions which are evidence-based. Furthermore, there is a need to harmonise notice and takedown procedures as well as a need to clearly distinguish between harmful and illegal content.

Arising from the discussions the host nation will draft a position paper, incorporate relevant feedback and present the agreed text to the European Commission to ensure the D9+ position is recognised in advance of the development of a

Digital Services Act. Lastly, Denmark agreed to host the next D9+ Ministerial meeting which will take place in the first half of 2020.

On 10 December, officials from the Department of Business, Enterprise and Innovation engaged with their Polish counterparts to discuss a wide number of EU digital policy issues including:

- Review of the eCommerce Directive / Digital Services Act;
- Platforms to Business Regulation / Ranking Transparency Guidelines;
- Artificial Intelligence and forthcoming AI Regulation;
- Proposals for modernisation and reform of competition policy in digital sector; and
- Cybersecurity.

Officials agreed to continue these useful Bilateral discussions in 2020.

Inter-Departmental Committee on the Digital Single Market

Minister Breen hosted the 15th Meeting of the Inter-Departmental Committee on the Digital Single Market (DSM) on 4 December 2019. At the meeting, Departmental representatives provided updates on a range of issues, including:

- The incoming Croatian Presidency priorities—their term of office will run for the first half of 2020 and the theme of their office is to create ‘a strong Europe in a world of challenges’. They have an ambitious programme and the list of priorities includes a shared focus on platforms and digital services.
- An update was given on the last meeting of the eCommerce Experts Group where it was concluded that the principles of ‘country of origin’ and ‘safe harbour’ contained within the eCommerce Directive were still relevant and appropriate. On content moderation the prohibition on the placing of a general monitoring obligation was still considered the correct approach. It was agreed that there were a number of situations where it is appropriate to provide for specific monitoring obligations and that different types of content and platforms would require their own particular treatment.
- Artificial Intelligence – President von Der Leyen’s undertaking to introduce a Regulation on AI within 100 days of the new Commission has now been supplemented by Commissioner Vestager’s undertaking to introduce measures to assist in the deployment of AI initiatives within 100 days of the new Commission.

Consultations on Ireland’s National AI Strategy concluded in November and the submissions are currently being analysed. Further Inter-Departmental meetings are taking place in the meantime with the launch of the Strategy expected next year.

- Platforms and Ranking Transparency Guidelines - The Commission will accompany the transparency requirements set out in Article 5 with Guidelines. There is to be a stakeholder event in the coming weeks to shape the development of draft Guidelines with the finalisation of these expected before the Regulation comes into force in July next year.
- There was also an update on the forthcoming Online Safety Bill – this includes two aspects, the forthcoming transposition of the Audio-Visual Media Services Directive and national online safety measures. A Bill is expected to be brought to Cabinet in the coming months.
- Other files that were reported on were: Terrorist Content, e-Evidence, ePrivacy, National Cybersecurity Strategy, 5G, Copyright and the European Blockchain Services Infrastructure.

Update on new Commission Portfolios



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As of 1 December 2019, a number of new Commissioner portfolios have a digital focus:

Margrethe Vestager – is the European Commission Executive Vice President in charge of digital and competition policies. Her Cabinet of 24 includes experts on digital policy, digital taxation, digital skills, telecoms, cybersecurity and digital connectivity. She has overall responsibility for the Commission President's priority "Europe fit for a Digital Age".

Her mission letter lists, among other priorities within the first 100 days, the co-ordination of a European approach on Artificial Intelligence (AI). She also has responsibility for co-ordinating the work on digital taxation and co-ordination of the work on a new Digital Services Act, including addressing working conditions of platform workers. Actions on the competition side include strengthening competition enforcement.

Thierry Breton – Commissioner for industrial strategy, space, defence, digital single market. Actions under digital economy and society include: Contributing to enhancing Europe's technological sovereignty, investing in data sharing, blockchain and High-Performance Computing and jointly defining standards for 5G networks; Work on a co-ordinated EU approach to AI and on the new Digital Services Act; A Digital Education Action Plan; and

Building a real single market for cybersecurity, including building a joint cyber unit.

Phil Hogan, Commissioner for Trade, will give further impetus to WTO negotiations on ecommerce to harness the full potential of data, address barriers and enhance consumer and business trust.

Mariya Gabriel, Commissioner for Innovation, Research, Culture, Education and Youth will focus on digital skills, with a focus on digital literacy and education to close the digital skills gap.

Didier Reynolds, Commissioner for Justice, will contribute to legislation on a co-ordinated approach on human and ethical implications of AI.

Nicholas Schmidt, Commissioner for Jobs, is tasked with improving the labour conditions of platform workers.

Johannes Hahn will lead on international efforts to find an agreed approach to digital taxation, working with the OECD and G20 and, if no agreement is found by 2020, lead on a proposal for a fair European digital tax.

This Bulletin is issued by the EU Digital Single Market and Digital Economy Unit of the Department of Business, Enterprise & Innovation. The Unit supports the Minister of State for Trade, Employment, Business, EU Digital Single Market and Data Protection on DSM issues with the cooperation of the members of the Digital Single Market Inter-Departmental Committee.